Daniel Kotoyan
2334 Orchard View Lane
Escondido, CA 92027
(858) 735-8128
County - San Diego

FILED
08 JAN 24 AM 10:02
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: a DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

DANIEL KOTOYAN **Plaintiff,** **v.** **MICHAEL MUKASY, U.S. Attorney General,** **MICHAEL CHERTOFF, Secretary of the Department of Home Land Security;** **EMILIO T. GONZALEZ, Director, U.S Citizenship and Immigration Services,** **PAUL M. PIERRE, San Diego District, U.S. Department of Home Land Security, U.S. Citizenship and Immigration Services,** **ROBERT S. MUELLER, Director of the Federal Bureau of Investigation** **Defendants**	'08 CV 0139 JAH RBB Civil Action No. ______ **COMPLAINT AND PETITION FOR HEARING ON NATURALIZATION APPLICATION UNDER 8 U.S.C. § 1447(B)**

1. Daniel Kotoyan ("Plaintiff"), appearing pro se, for his complaint against the Defendants, alleges and shows as follows:

2. This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. § 1447(b)

PARTIES

3. Plaintiff is a lawful permanent resident of the United States. Plaintiff applied for naturalization to the United States and was interviewed for his naturalization application on June 16, 2004 (Exhibit A). Plaintiff has successfully passed the naturalization examination.

4. Defendant Michael Mukasy is the Attorney General of the United States. This action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act ("INA"), and is further authorized to delegate such powers and authority to subordinate employees of the Department of Justice. 8 U.S.C. § 1103(a).

5. Defendant Michael Chertoff is the head of the Department of Homeland Security ("DHS"). This action is brought against him in his official capacity. He is also generally charged with enforcement of the INA, and is further authorized to delegate such powers and authority to subordinate employees of the DHS. 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.

6. Defendant Emilio T. Gonzalez the Director of the United States Citizenship and Immigration Services ("USCIS"), and is responsible for the implementation of immigration and naturalizations laws, including the processing and determination of applications for naturalization. This action is brought against him in his official capacity.

7. Defendant Paul M. Pierre is the District Director of the USCIS, San Diego District. This action is brought against him in his official capacity. He is

generally charged with supervisory authority over all operation of the USCIS within his District with certain specific exceptions not relevant here. 8 C.F.R. § 100.2(d)(2)(ii). His responsibilities include the implementation of immigration and naturalizations laws, including the processing and determination of applications for naturalization, including application of the Plaintiff.

8. Defendant Robert S. Mueller, III is the Director of the Federal Bureau of Investigation, the law enforcement agency that conducts security clearances of other U.S. government agencies, including USCIS. This action is brought against him in his official capacity. Defendant has failed to complete the security clearances on Plaintiff's case.

JURISDICTION AND VENUE

9. Jurisdiction in this case is proper under INA § 336(b) and 8 U.S.C. §1447(b). Relief is requested pursuant to said statuses.

10. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a hearing on the matter in the district where Plaintiff resides.

CAUSE OF ACTION

11. Plaintiff realleges paragraphs 1 through 10 above.

12. Plaintiff is a lawful permanent resident (A# 071076527) of the United States. Plaintiff filed an N-400, Application for Naturalization with the U.S. Citizenship and Immigration Services and was interviewed, as discussed above, by USCIS' San Diego office on June 16, 2004.

13. Plaintiff made numerous inquiries with Defendants, requesting information regarding the status of his application. Plaintiff was informed that his application was still pending and was awaiting completion of the security clearance checks. (Exhibit B).

14. Plaintiff application for naturalization has now remained

unadjudicated for almost 4 years from the date of interview.

13. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements.

14. Defendants, in violation of 8 U.S.C. §1447(b), have failed to make a determination on Plaintiff's naturalization application with the 120-day period after the date of examination.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that:

1. the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order adjudicating the naturalization application pursuant to 8 U.S.C. §1447(b) or require Defendants to adjudicate Plaintiff's naturalization application in a time period not to exceed 60 days.

Dated: January 23, 2008

Respectfully submitted,

D. Kotoyan

Daniel Kotoyan, Plaintiff

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EXHIBIT A 1
EXHIBIT B 2

U.S. Department of Justice
Immigration and Naturalization Service

Naturalization Interview Results

A#:

On JUN 16 2004, you were interviewed by INS officer [signature]

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the test of U.S. history and government and the English language requirement was waived.
- ☐ The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.

- ☐ You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.

- ☐ Please follow the instructions on the Form N-14.
- ☐ INS will send you a written decision about your application.

- ☐ You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) ✓ **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B)_____ **A decision cannot yet be made about your application.**

It is very important that you:

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

U.S. Department of Homeland Security
USCIS
880 Front Street, Room 1234
San Diego,CA 92101-8834

U.S. Citizenship and Immigration Services

Thursday, February 8, 2007

DANIEL GR KOTOYAN
2334 ORCHARD VIEW LANE
ESCONDIDO CA 92027

Dear DANIEL GR KOTOYAN:

On 02/02/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	08/10/2004
Receipt #:	WSC*001190563
Beneficiary (if you filed for someone else):	KOTOYAN, DANIEL, GR
Your USCIS Account Number (A-number):	A071076527
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

BRIAN P. BILBRAY
50TH DISTRICT, CALIFORNIA

227 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-0508
FAX (202) 225-2558

DISTRICT OFFICE:
462 STEVENS AVE., #107
SOLANA BEACH, CA 92075
(858) 350-1150
FAX (858) 350-0750

Congress of the United States
House of Representatives
Washington, DC 20515–0550

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

COMMITTEE ON SCIENCE AND TECHNOLOGY

COMMITTEE ON VETERANS' AFFAIRS

HOUSE REPUBLICAN POLICY COMMITTEE

IMMIGRATION REFORM CAUCUS, CHAIRMAN

June 28, 2007

Mr. Daniel Kotoyan
2334 Orchard View Ln
Escondido, CA 92027-6735

Dear Mr. Kotoyan:

Thank you for your patience while awaiting a response from the Federal Bureau of Investigation (FBI) regarding your background name check. Included in this letter is the information I received from the FBI regarding the current status of your application.

> "A review of the Federal Bureau of Investigation's (FBI's) Name Check Program database concerning DANIEL KOTOYAN revealed that a request was received from the United States Citizenship and Immigration Services on 09/01/2004, and is currently in process.
>
> The FBI processes millions of name check requests each year with each requiring thoughtful consideration. We know how important this information must be to your constituent; however, the FBI must also balance the need for national security in preparing the response to each of these requests. The FBI's homeland security mission requires that our name check process be primarily focused on an accurate and thorough result. While an exact date for completion of this review cannot be given be assured that the results will be made available to the immigration authorities as quickly as possible."

I hope this information proves helpful. This completes the congressional action on this matter. Please feel free to contact my office in the future should you have any questions regarding another federal matter. As always, it is a pleasure to serve you.

Sincerely,

Brian P. Bilbray
Member of Congress

JS44
(Rev. 3/99)

CIVIL COVER SHEET

The JS – 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

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2334 Orchard View Lane
Escondido, CA 92027

DEFENDANTS

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MICHAEL CHERTOFF, Secretary of Department of Home Land Security

EMILIO T. GONZALEZ, Director, U.S Citizenship and Immigration Services

PAUL M. PIERRE, San Diego District, U.S Citizenship and Immigration Services

ROBERT S. MUELLER, Director of the Federal Bureau of Investigation

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(EXCEPT IN U.S. PLAINTIFF CASES)

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(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

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8 U.S.C. §1447(b) PETITION FOR HEARING ON NATURALIZATION APPLICATION

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☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND Injunctive and Declaratory Relief

Check YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☐ NO

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JUDGE ______ DOCKET NUMBER ______

DATE **Tuesday, January 22, 2008**

SIGNATURE OF ATTORNEY OF RECORD [signature]

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

146811 - BH

January 24, 2008
10:02:24

Civ Fil Non-Pris
USAO #.: 08CV0139 CIVIL FILING
Judge..: JOHN A HOUSTON
Amount.: $350.00 CK
Check#.: PC# 2344

Total-> $350.00

FROM: KOTOYAN V. MUKASY ET AL
CIVIL FILING

JS44
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PAID $350 1/24/08 BH RECPT# 146811